

REMARKS

Claims 1-26 are pending in the application. Reconsideration of this application is respectfully requested.

The Office Action has objected to the specification on the ground that the Abstract of the Disclosure contains improper language and is too long. A replacement Abstract of the Disclosure that is fully compliant with the Rules of Practice is submitted herewith. Accordingly, it is submitted that the amendment obviates the objection to the specification and, therefore, that the objection should be withdrawn.

The Office Action rejects claims 1-7, 10, 11, 16-18, 21 and 22 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 6,085,176 to Woolston, hereafter Woolston, in view of Official Notice.

This rejection is respectfully traversed. The Examiner states that Woolston "teaches to query another consignment node(s) (another directory service agent as current directory service agent) and repeat the step of querying and adding" citing the passage at column 7, lines 55-60. This passage does not support the statement. The passage merely concerns the local consignment node generating a message that is broadcast to all of the consignment nodes. This is entirely different than querying of a current directory service agent and then repeating the querying step for another current directory service agent as recited in independent claims 1-3 and 16. Moreover, the statement is contradicted by the next sentence in the Office action as discussed below.

The Examiner admits that Woolston does not disclose or teach the recitation found in independent claims 1-3 and 16 in slightly different language. For example, claim 2 recites:

“selectively one of terminating the search or selecting another directory service agent as the current directory service agent, and repeating the steps of querying and adding.”

The Examiner then concludes that it would have been obvious to one of ordinary skill to modify Woolston to perform these steps in view of the Official Notice. The Official Notice taken is “that both the concept and advantages of providing to repeat the steps of querying consignment node(s) (directory service agent) and adding search results or terminating the search as being done ‘selectively’ is well known and expected in the art.”

This conclusion is erroneous. First, the Examiner asserts that the “well known” step of repeating the steps of querying consignment nodes and adding search results or terminating the search as being done “selectively” is known in the context of consignment nodes, namely the context of Woolston. However, Woolston, as admitted by the Examiner, does not teach querying a current directory agent and then repeating the querying step for another directory service agent. To the best of Applicant’s knowledge, the consignment technology art, like Woolston, employs message broadcast techniques to a plurality of consignment nodes. Second, the Examiner fails to identify any “advantages” of repeating the steps. Therefore, the “advantages” portion of the Official Notice is a conclusion, rather than a fact, and has no probative value. Third, the “and expected in the art” portion of the Official Notice is a conclusion and not a probative fact. Finally for all the reasons set forth above, the Official Notice is challenged.

The Office Action suggestion to use the Official Notice in combination with Woolston is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reasons set forth above, it is submitted that the rejection of claims 1-7, 10, 11, 16-18, 21 and 22 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action rejects claims 8, 9, 12-15, 19, 20 and 23-26 under 35 U.S.C. 103(a) as unpatentable over Woolston and Official Notice in view of U.S. Patent No. 6,418,463 to Blevins, hereafter Blevins.

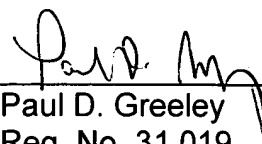
Since claims 8, 9, 12-15, 19, 20 and 23-26 depend from independent claims 3 and 16, this rejection is erroneous for the same reasons as set forth above in the discussion of the rejection of claims 3 and 16.

For the reasons set forth above, it is submitted that the rejection of claims 8, 9, 12-15, 19, 20 and 23-26 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

It is respectfully requested for the reasons set forth above that the objection to the specification be withdrawn, that the rejections under 35 U.S.C. 103(a) be withdrawn, that claims 1-26 be allowed and that this application be passed to issue.

Respectfully Submitted,

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